

## **REMARKS**

Claims 1, 3, 20, 21, 34, 37-39, 42, 44, 46, 48 and 50 have been amended. Claims 1-4, 8, 9, 20, 21, 26-35 and 37-50 remain pending in the application. Claim 2 has been cancelled. Reconsideration is respectfully requested in light of the following remarks.

### **Claim Objections:**

The Office Action objected to claims 37-39 as being dependent on a cancelled claim. By this response, claims 37-39 have been amended to depend from pending claim 34. Applicants respectfully request removal of the rejection.

### **Section 112, First Paragraph, Rejection:**

The Office Action rejected claims 1, 2, 42, 44, 46, 48 and 50 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement.

With regard to claims 1 and 2, the Office Action states:

Neither the web page, nor the time at which products are presented has the function for displaying the web page and transmitting data, i.e., *rendering of the Web-page by the point of presentation and causes the point of presentation to transmit the data to the first network location*, at least in view of the Specification. Merchandising data is collected by executable codes of "mboxes" (Specification, Paragraph 0037) but not by the *point of presentation* as recited.  
(Office Action, page 2)

Applicants respectfully disagree. Applicants direct attention to Applicants' specification as disclosing an exemplary embodiment in accordance with the claimed features. Paragraph [0037] states:

**[0037]** A product data collection process according to an embodiment of the invention begins with a consumer/shopper operating a client (e.g., Microsoft Internet Explorer) on a

presentation device 34 to generate a request for product information from the Seller's E-Commerce Server **132**. Upon receiving the request, the Seller's Ecommerce Server **132** may retrieve data from the various databases **120** containing product information, and may produce a product-related page **125** containing the product's information or a strictly HTML page. Significantly, the product-related page **125** generated by the Seller's E-Commerce Server **132** contains "mboxes", which consist of program statements or executable codes and which will be described in greater detail below. The Seller's E-Commerce Server **132** then returns the product-related page **125** to the presentation device 34. The consumer/shopper's client renders the returned the product-related page 125, including the embedded "mboxes". Program statements or executable codes of the "mboxes" cause the consumer/shopper's client to make a request to the Mbox Server **140**, sending information about the product(s) displayed. The "mboxes" may be configured such that identification of the consumer/shopper's client is sent to the Mbox Server **140** as well. The Mbox Server **140** then stores the received data into the Merchandising Database **144**.  
(emphasis added)

Accordingly, in the above described embodiment, the rendering is provided at the presentation device 34. As described, the presentation device may include a computer or digital presentation device and may include a client, such as Microsoft Internet Explorer, operating thereon which may render a returned product page. *See Applicants' specification, para. [0034]*. Thus, the presentation device 34 may be an example of the point of presentation of claims 1 and 2. Moreover, with regard to the Office Action's response to arguments relating to the §112 rejection, Applicants note that while the "point of presentation" terminology may be stated broadly, "[b]readth of a claim is not to be equated with indefiniteness." M.P.E.P. §2173.04 (citing *In re Miller*, 441 F.2d 689 (CCPA 1971)). The mere fact that there may be many different features that fall within the scope of the term "point of presentation" simply renders the term broad, not indefinite. In any event, Applicant has amended claim 1 to further clarify a "presentation device" at a second network location.

With regard to claims 42, 44, 46, 48 and 50, the Office Action states:

Regarding claims 42, 44, 46, 48 and 50, the claimed limitation  
*determining a number or times the Web-page has been rendered*

*based on said obtained merchandising data* was not disclosed in the Specification. As disclosed in the Specification, the Logger 244 may keep track of the number of times a product has been displayed but not *based on said obtained merchandising data* as recited.  
(Office Action, pages 7-8)

Although Applicants do necessarily agree with the above assertion regarding claims 42, 44, 46, 48 and 50, Applicants have amended claims 42, 44, 46, 48 and 50 in an effort to expedite prosecution. Applicants submit that the amended claims are not indefinite.

Applicants submit that the claims are not indefinite for at least these reasons. Removal of the rejection is respectfully requested.

**Section 102(b) Rejection:**

The Office Action rejected claims 1-4, 8, 9, 20, 21, 26-28, 30-35 and 38-40 under 35 U.S.C. § 102(b) as being anticipated by Harrington (U.S. Patent 5,895,454). Applicants respectfully disagree for at least the following reasons.

Claim 1 is directed to a method of populating a merchandising product database at a first network location. Merchandising data related to a product is obtained from a presentation device at a second network location. Obtaining merchandising data includes acquiring selected product information from the presentation device. The selected product information includes data that is transmitted to the presentation device from a server at a third network location in response to a user request for a Web-page. Rendering of the Web-page by the presentation device causes the presentation device to transmit the data to the first network location, where the merchandising product database is located. At least a part of the obtained merchandising data is stored in the merchandising product database at the first network location. Storing includes collecting the selected product information in the merchandising product database. Accordingly, the method of claim 1 includes transmitting (in response to a user request for a web-Page)

selected product information including data from a server on a network to a presentation device on a network, then transmitting the data from the presentation device to the first network location where the database is located, and then storing at least a portion of the data in the in the database. Further, transmission of the data from the presentation device at the second network location to the first network location is caused by rendering of the web-Page at the presentation device. That is data is transmitted from the presentation device to the third network location (where the database is located) as a result of the web-Page being rendered at the presentation device.

Claim 1 recites a combination of features including, but not limited to:

...wherein the selected product information includes data that is transmitted to the presentation device from a server at a third network location in response to a user request for a Web-page, and wherein rendering of the Web-page by the presentation device causes the presentation device to transmit the data to the first network location...

With regard to the above feature, the Office Action response to arguments state:

As discussed above with respect to the rejection under 35 U.S.C. § 112, 1st paragraph, the claimed limitation *rendering of the Web-page by the point of presentation causes the point of presentation to transmit the data to the first network location* was not disclosed in the Specification. Merchandising data is collected by executable codes of "mboxes" (Specification, Paragraph 0037) but not by the *point of presentation* as recited.

Therefore, *the point of presentation* in the step of rendering is considered as being equivalent to executable codes in light of the Specification.

(Office Action, page 3)

Applicants respectfully disagree. As discussed above with respect to the § 112 rejection, Applicants submit that the claim feature of “wherein rendering of the Web-page by the point of presentation causes the point of presentation to transmit the data to the first network location” is, in fact, disclosed in Applicants specification. More specifically, rendering may be provided at the presentation device 34. As described, the presentation device may include a computer or digital presentation device and may include a client, such as Microsoft Internet Explorer, operating thereon which may render

a returned product page. (*See Applicants' specification, para. [0034]*). Thus, the presentation device 34 may be an example of the point of presentation of claim 1. In any event, Applicant has amended claim 1 to further clarify a "presentation device" at a second network location. Accordingly, Applicants submit that the claimed rendering of the Web-page by the presentation device is not equivalent to disclosed executable codes of the cited art.

Moreover, contrary to the assertions of the Office Action, Harrington does not teach or suggest at least the feature of, *wherein the selected product information includes data that is transmitted to the presentation device from a server at a third network location in response to a user request for a Web-page, and wherein rendering of the Web-page by the presentation device causes the presentation device to transmit the data to the first network location.* Harrington relates to a method of effecting commerce in a networked computer environment in a computerized system (Harrington, abstract). More specifically, the portions of Harrington cited by the Office Action disclose a network for flow of information/data as well as physical goods. (Harrington, col. 3, line 64 to col. 4, line 9. As illustrated in FIG. 1 of Harrington, a database 10 and vendor site is connected to a network. A client browser 13 is connected to user 11 that is connected to the database 10 via a modem connection, and a server application is connected to the database 10. Thus, the client browser 13, the user 11 and the server application are coupled to the network and the vendor, via the database 10. With respect to FIG. 2, Harrington discloses that the database 10 contains information relating to vendor products, etc. (Harrington, col. 4, lines 9-12). During use, a user 11 specifies particular criteria which would be used by the database search engine 21 to provide a list of suitable websites which match the user's product/service criteria. (Harrington, col. 4, lines 11-15). If, while the user 11 is reviewing the products/services provided by a vendor 25, the user wishes to order or otherwise purchase a product/service he or she (generally) clicks on a "purchase" icon or button. (Harrington, col. 4, lines 26-29). If a user activates the "purchase" button (as an example of a purchase/selection notification means), the vendors modified website software 24 transmits a transaction notification (33 in FIG. 2) back to the database administration software 21. (Harrington, col. 4, lines 35-38).

Notably, the presentation device, presumably the client browser application 13, does not transfer the data to the database. Instead, data is transmitted directly to the database from the vendor.

Accordingly, Harrington discloses an event that is activated by a purchase/selection, such as a user selecting a “purchase” button. In response to activating the event, a notification is transmitted from the vendor to the database. Harrington, however, does not disclose that rendering of a Web-page causes transmission of data. Moreover, Harrington does not disclose transmission of data from a presentation device at a second network location to a database at a first network location. That is Harrington appears to at best disclose direct transfer of data between the vendor and the database, as opposed to transfer of data from a presentation device (e.g., a network location including a computer or digital presentation device where the Web-page is rendered) to a second network location where the database is located, much less the transfer being caused by rendering of a Web-page by the presentation device. The other cited art does not remedy these deficiencies. Accordingly, Harrington, taken alone or in hypothetical combination with the cited art does not teach or suggests at least the features of, “obtaining merchandising data related to a product from a presentation device at a second network location, the obtaining step comprising acquiring selected product information from at least at the presentation device, wherein the selected product information includes data that is transmitted to the presentation device from a server at a third network location in response to a user request for a Web-page, and wherein rendering of the Web-page by the presentation device causes the presentation device to transmit the data to the first network location,” in combination with other features of the claim.

Applicants submit that claim 1 is allowable over the cited art for at least these reasons.

Claim 8 recites a combination of features including, but not limited to:

an interface configured to be coupled to a network and to obtain selected product data related to a product presented at a second network location on a Web-page served by a server at a

third network location, wherein the selected product data includes data that is transmitted to the second network location from the server at the third network location in response to a user request for the Web-page, and wherein rendering of the Web-page at the second network location causes the data to be transmitted from the second network location to the interface

Applicants respectfully submit that claim 8 is allowable for at least reasons similar to those discussed above.

Claim 20 recites a combination of features including, but not limited to:

first computer program codes to cause the computer device to obtain selected product information related to a product presented on a Web-page rendered on a presentation device at a second network location, wherein the Web-page is served by a server at a third network location, wherein the selected product information includes data that is obtained by the presentation device from the server in response to a user request for the Web-page, and wherein rendering of the Web-page causes the presentation device to transmit the data to the computer device

Applicants respectfully submit that claim 20 is allowable for at least reasons similar to those discussed above.

Claim 26 recites a combination of features including, but not limited to:

wherein said rendering causes a device at the second network location to communicate the selected data related to the products from the second network location to the merchandising product database at the first network location such that the selected data is communicated from the source product databases to the merchandising product database by way of the second network location without requiring a direct data transfer between the source product databases at the third network location and the merchandising product database at the first network location

Applicants respectfully submit that claim 26 is allowable for at least reasons similar to those discussed above.

Claim 34 recites a combination of features including, but not limited to:

at said first network location, obtaining merchandising data related to a product, wherein said product is presented at a

presentation device, wherein said presentation device is located at a second network location, wherein said obtaining comprises receiving product data transmitted by said presentation device, wherein said product data is embedded in a Web-page transmitted to said presentation device from a third network location, and wherein said medium Web-page is transmitted to said presentation device from said third network location in response to a user request from said presentation device, and wherein rendering of said Web-page causes said presentation device to transmit said product data to said first network location

Applicants respectfully submit that claim 34 is allowable for at least reasons similar to those discussed above.

Applicants also assert that the rejections of numerous ones of the dependent claims are further unsupported by the cited art. Since the rejections have been shown to be unsupported for the independent claims, a further discussion of the dependent claims is not necessary at this time.

#### **Section 103(a) Rejections:**

The Office Action rejected claims 29 and 37 under 35 U.S.C. § 103(a) as being unpatentable over Harrington in view of Musgrove et al. (U.S. Patent 6,535,880) (hereinafter “Musgrove”), and claims 41-50 as being unpatentable over Harrington in view of Trubey et al. (U.S. Publication 2002/0077930) (hereinafter “Trubey”). Applicants submit that the claims are allowable over the cited art for at least the reasons discussed above.



## CONCLUSION

Applicants submit the application is in condition for allowance, and an early notice to that effect is respectfully requested.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/6067-41400/RCK.

Respectfully submitted,

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